

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
SECURITIES INVESTOR PROTECTION
CORPORATION,**

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

MAGNIFY INC., et al.,

Defendants.

Adv. Pro. No. 10-05279 (SMB)

**ORDER DENYING DEFENDANTS' MOTION TO DISMISS
THE TRUSTEE'S SECOND AMENDED COMPLAINT**

On October 30, 2017, Defendants Magnify, Inc., Strand International Investments Ltd., Premero Investments Ltd., Yair Green, the Yeshaya Horowitz Association, and Express Enterprises Inc. (collectively, the "Defendants") filed a motion (ECF No. 149) together with a supporting memorandum of law and affidavit (ECF Nos. 150 , 151 & 152), to dismiss the Second Amended Complaint (ECF No. 143) of Plaintiff Irving H. Picard, the trustee (the "Trustee") for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the Chapter 7 estate of Bernard L. Madoff (the "Motion to Dismiss").

Among other things, the Motion to Dismiss sought dismissal of claims based on transfers made prior to January 1, 2001 ("Point V of the Motion to Dismiss"). On December 13, 2017, the Defendants

and Trustee filed, and the Court so-ordered, a stipulation to stay litigation of Point V of the Motion to Dismiss pending the Court's adjudication of the balance of the Motion to Dismiss. (ECF No. 155) (the "December 13, 2017 Order").

On December 20, 2017, the Trustee filed his opposition to the Motion to Dismiss (ECF No. 156). On January 24, 2018, the Defendants filed a reply in further support of the Motion to Dismiss (ECF No. 160). This Court held oral argument on the Motion to Dismiss on January 31, 2018. On April 13, 2018, the Court entered a Memorandum Decision Denying the Motion to Dismiss (ECF No. 166) (the "Decision").

For the reasons set forth in the Decision, which is incorporated herein and made a part hereof, it is hereby **ORDERED** that:

1. As to Counts One through Six, the Motion to Dismiss is **DENIED**.
2. As to Count Seven, the Motion to Dismiss is **DENIED** with respect to Transfers made on or after January 1, 2001.
3. As to Count Eight, the Motion to Dismiss is **DENIED**.
4. As to Count Nine, the Motion to Dismiss is **DENIED**.
5. Pursuant to Paragraph 5 of the December 13, 2017 Order, the Trustee and Defendants shall, within thirty (30) days of entry of this Order, file a stipulation setting forth the briefing schedule for Point V of the Motion to Dismiss addressing the avoidability of Transfers made before January 1, 2001.
6. Defendants' Answer to the Second Amended Complaint shall be due thirty (30) days after entry of this Court's order disposing of Defendants' Motion to Dismiss the

Trustee's claims based on transfers made prior to January 1, 2001.

Dated: April 24, 2018
New York, New York

/s/ *Stuart M. Bernstein*
STUART M. BERNSTEIN
United States Bankruptcy Judge